



VIRGINIA DEPARTMENT OF ENVIRONMENTAL QUALITY

NORTHERN REGIONAL OFFICE
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**STATE WATER CONTROL BOARD
ENFORCEMENT ACTION - ORDER BY CONSENT
ISSUED TO
Woodford Estates MHC, LLC
FOR
Woodford Estates MHC
VPDES Permit No. VA0061409**

SECTION A: Purpose

This is a Consent Order issued under the authority of Va. Code § 62.1-44.15, between the State Water Control Board and Woodford Estates MHC, LLC, regarding the Woodford Estates MHC facility, for the purpose of resolving certain violations of the State Water Control Law and the applicable permit and regulation.

SECTION B: Definitions

Unless the context clearly indicates otherwise, the following words and terms have the meaning assigned to them below:

1. "305(b) report" means the report required by Section 305(b) of the Clean Water Act (33 United States Code § 1315(b)), and Va. Code § 62.1-44.19:5 for providing Congress and the public an accurate and comprehensive assessment of the quality of State surface waters.
2. "Board" means the State Water Control Board, a permanent citizens' board of the Commonwealth of Virginia, as described in Va. Code §§ 10.1-1184 and 62.1-44.7.
3. "Department" or "DEQ" means the Department of Environmental Quality, an agency of the Commonwealth of Virginia, as described in Va. Code § 10.1-1183.

4. "Director" means the Director of the Department of Environmental Quality, as described in Va. Code § 10.1-1185.
5. "Discharge" means discharge of a pollutant. 9 VAC 25-31-10
6. "Discharge of a pollutant" when used with reference to the requirements of the VPDES permit program means:
 - (a) Any addition of any pollutant or combination of pollutants to surface waters from any point source; or
 - (b) Any addition of any pollutant or combination of pollutants to the waters of the contiguous zone or the ocean from any point source other than a vessel or other floating craft which is being used as a means of transportation.
7. "DMR" means Discharge Monitoring Report.
8. "Effluent" means wastewater – treated or untreated – that flows out of a treatment plant, sewer, or industrial outfall.
9. "Facility" or "Plant" means the Woodford Estates MHC wastewater treatment plant, ~~located at 12392 Cousteau Street, Woodford, Virginia 22580, which treats and discharges~~ treated sewage and other municipal wastes, for the residents and businesses of Woodford Estates MHC, LLC.
10. "Notice of Violation" or "NOV" means a type of Notice of Alleged Violation under Va. Code § 62.1-44.15.
11. "NRO" means the Northern Regional Office of DEQ, located in Woodbridge, Virginia.
12. "Order" means this document, also known as a "Consent Order" or "Order by Consent," a type of Special Order under the State Water Control Law.
13. "Permit" means VPDES Permit No. VA0061409, which was issued under the State Water Control Law and the Regulation to Woodford Estates MHC, LLC on June 25, 2017, and which expires on June 24, 2022.
14. "Pollutant" means dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials (except those regulated under the Atomic Energy Act of 1954, as amended (42 USC § 2011 *et seq.*)), heat, wrecked or discarded equipment, rock, sand, cellar dirt and industrial, municipal, and agricultural waste discharged into water... 9 VAC 25-31-10.
15. "Pollution" means such alteration of the physical, chemical, or biological properties of any state waters as will or is likely to create a nuisance or render such waters (a) harmful

or detrimental or injurious to the public health, safety, or welfare or to the health of animals, fish, or aquatic life; (b) unsuitable with reasonable treatment for use as present or possible future sources of public water supply; or (c) unsuitable for recreational, commercial, industrial, agricultural, or other reasonable uses, provided that (i) an alteration of the physical, chemical, or biological property of state waters or a discharge or deposit of sewage, industrial wastes or other wastes to state waters by any owner which by itself is not sufficient to cause pollution but which, in combination with such alteration of or discharge or deposit to state waters by other owners, is sufficient to cause pollution; (ii) the discharge of untreated sewage by any owner into state waters; and (iii) contributing to the contravention of standards of water quality duly established by the Board, are "pollution." Va. Code § 62.1-44.3.

16. "Regulation" means the VPDES Permit Regulation, 9 VAC 25-31-10 *et seq.*
17. "State Water Control Law" means Chapter 3.1 (§ 62.1-44.2 *et seq.*) of Title 62.1 of the Va. Code.
18. "State waters" means all water, on the surface and under the ground, wholly or partially within or bordering the Commonwealth or within its jurisdiction, including wetlands. Va. Code § 62.1-44.3.
19. "TSS" means total suspended solids.
20. "Va. Code" means the Code of Virginia (1950), as amended.
21. "VAC" means the Virginia Administrative Code.
22. "VPDES" means Virginia Pollutant Discharge Elimination System.
23. "Warning Letter" or "WL" means a type of Notice of Alleged Violation under Va. Code § 62.1-44.15.
24. "Woodford Estates MHC, LLC" means Woodford Estates MHC, LLC, a limited liability company authorized to do business in Virginia and its affiliates, partners, and subsidiaries. Woodford Estates MHC, LLC is a "person" within the meaning of Va. Code § 62.1-44.3.

SECTION C: Findings of Fact and Conclusions of Law

1. Woodford Estates MHC, LLC owns and operates the Plant. The Permit allows Woodford Estates MHC, LLC to discharge treated sewage and other municipal wastes from the Plant, to an unnamed tributary of the Motto River, in strict compliance with the terms and conditions of the Permit.

2. The Motto River has been neither monitored nor assessed. The nearest downstream assessed segment is the South River, approximately 4.6 miles downstream. The South River is located in the Mattaponi River Basin. The South River is listed in DEQ's 305(b) 2016 report as fully supporting for aquatic life use, wildlife use, and fish consumption use; recreational use was not assessed. The Facility was assigned a waste load allocation (WLA) of 6.96×10^{10} cfu/year for *E. coli* in the Mattaponi River Watershed Bacteria TMDL (EPA approved July 19, 2016).
3. In submitting its DMRs, as required by the Permit, Woodford Estates MHC, LLC has indicated that it exceeded discharge limitations contained in Part I.A.1 of the Permit, for the below parameters and their indicated months. Woodford Estates MHC, LLC indicated that it believed the exceedances were related to then-unresolved problems in the Plant's dechlorination chamber and transfer pipe, and fluctuations in activity of the plant's microbiome.
 - a. *E. coli* (April 2019)
 - i. Reported 214 n/100mL. Required: 126 n/100mL.
 - b. TSS (March 2019)
 - i. Reported: 40.7 mg/L. Required: 30 mg/L.
 - c. *E. coli* (March 2019)
 - i. Reported 217 n/100mL. Required: 126 n/100mL.
 - d. TSS (February 2019)
 - i. Reported: 39.3 mg/L. Required: 30 mg/L.
 - e. *E. coli* (February 2019)
 - i. Reported 699 n/100mL. Required: 126 n/100mL.
 - f. *E. coli* (January 2019)
 - i. Reported 212 n/100mL. Required: 126 n/100mL.
 - g. Ammonia Avg. (January 2019)
 - i. Reported 8.3 mg/L. Required: 7.5 mg/L.
 - h. Ammonia Max. (January 2019)
 - i. Reported 8.3 mg/L. Required: 7.5 mg/L.
 - i. Ammonia Avg. (December 2018)
 - i. Reported 16.49 mg/L. Required: 7.5 mg/L.
 - j. Ammonia Max. (December 2018)
 - i. Reported 16.49 mg/L. Required: 7.5 mg/L.
 - k. *E. coli* (November 2018)
 - i. Reported 217 n/100mL. Required: 126 n/100mL.
 - l. Ammonia Avg. (October 2018)
 - i. Reported 3.23 mg/L. Required: 1.6 mg/L.
 - m. Ammonia Max. (October 2018)
 - i. Reported 12.53 mg/L. Required: 1.6 mg/L.
 - n. *E. coli* (September 2018)
 - i. Reported 152 n/100mL. Required: 126 n/100mL.
4. NRO issued Warning Letters and Notices of Violation for the parameter exceedances as follows:

- a. WL W2018-12-N-1006 (December 27, 2018)
 - b. WL W2019-01-N-1007 (January 31, 2019)
 - c. WL W2019-02-N-1015 (February 19, 2019)
 - d. NOV W2019-03-N-0008 (April 3, 2019)
 - e. NOV W2019-04-N-0003 (April 23, 2019)
 - f. NOV W2019-05-N-0002 (May 20, 2019)
 - g. NOV W2019-06-N-0003 (July 3 2019)
5. Part I.A.1.b of the Permit contains discharge limits for effluent parameters, including TSS, *E. coli*, and Ammonia (as N).
6. Woodford Estates MHC, LLC responded to the Warning Letters and Notice of Violation on April 4, 2019, by submitting a plan for corrective actions to address the ammonia, TSS, and *E. coli* exceedances. Additionally, Woodford Estates MHC, LLC reported in a September 4, 2019, letter that it had taken measures to identify and resolve the source of bacterial and TSS exceedances, including the emptying and washing of the contact tank, testing this tank for leaks, flushing of the transfer line between the contact and dechlorination tanks, and replacing the transfer line. Ammonia noncompliance was alleged to be the result of cold weather events impacting survival of the plant's microbiome.
7. Va. Code § 62.1-44.5 states that: "[E]xcept in compliance with a certificate issued by the Board, it shall be unlawful for any person to discharge into state waters sewage, industrial wastes, other wastes, or any noxious or deleterious substances."
8. The Regulation, at 9 VAC 25-31-50, also states that except in compliance with a VPDES permit, or another permit issued by the Board, it is unlawful to discharge into state waters sewage, industrial wastes or other wastes.
9. Va. Code § 62.1-44.15(5a) states that a VPDES permit is a "certificate" under the statute.
10. The Department has issued one other permit to Woodford Estates MHC, LLC other than VPDES Permit No. VA0061409, which is the VPDES General Permit for Total Nitrogen and Total Phosphorus Discharges and Nutrient Trading in the Chesapeake Watershed in Virginia, VAN030156, effective January 1, 2017, and expiring December 31, 2021.
11. The Motto River is a surface water located wholly within the Commonwealth and is a "state water" under State Water Control Law.
12. Based on the results of the discharge documentation submitted to DEQ, the Board concludes that Woodford Estates MHC, LLC has violated the Permit Part I.A.1.b and Regulation 9 VAC 25-31-50, by discharging treated sewage and municipal wastes from the Plant while concurrently failing to comply with the conditions of the Permit, as described in paragraph C(3) – C(6), above.

13. On May 14, 2019, Department staff met with representatives of Woodford Estates MHC, LLC to discuss the violations, including Woodford Estates MHC, LLC's written response.
14. In order for Woodford Estates MHC, LLC to return to compliance, DEQ staff and representatives of Woodford Estates MHC, LLC have agreed to the Schedule of Compliance, which is incorporated as Appendix A of this Order.

SECTION D: Agreement and Order

Accordingly, by virtue of the authority granted it in Va. Code §§ 62.1-44.15, the Board orders Woodford Estates MHC, LLC, and Woodford Estates MHC, LLC agrees to:

1. Perform the actions described in Appendix A of this Order; and
2. Pay a civil charge of **\$6,562.50** within 30 days of the effective date of the Order in settlement of the violations cited in this Order.

Payment shall be made by check, certified check, money order or cashier's check payable to the "Treasurer of Virginia," and delivered to:

Receipts Control
Department of Environmental Quality
Post Office Box 1104
Richmond, Virginia 23218

Woodford Estates MHC, LLC shall include its Federal Employer Identification Number (FEIN) with the civil charge payment and shall indicate that the payment is being made in accordance with the requirements of this Order for deposit into the Virginia Environmental Emergency Response Fund (VEERF). If the Department has to refer collection of moneys due under this Order to the Department of Law, Woodford Estates MHC, LLC shall be liable for attorneys' fees of 30% of the amount outstanding.

SECTION E: Administrative Provisions

1. The Board may modify, rewrite, or amend this Order with the consent of Woodford Estates MHC, LLC for good cause shown by Woodford Estates MHC, LLC, or on its own motion pursuant to the Administrative Process Act, Va. Code § 2.2-4000 *et seq.*, after notice and opportunity to be heard.
 2. This Order addresses and resolves only those violations specifically identified in Section C of this Order. This Order shall not preclude the Board or the Director from taking any action authorized by law, including but not limited to: (1) taking any action authorized by law regarding any additional, subsequent, or subsequently discovered violations; (2)
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seeking subsequent remediation of the facility; or (3) taking subsequent action to enforce the Order.

3. For purposes of this Order and subsequent actions with respect to this Order only, Woodford Estates MHC, LLC admits the jurisdictional allegations, findings of fact, and conclusions of law contained herein.
4. Woodford Estates MHC, LLC consents to venue in the Circuit Court of the City of Richmond for any civil action taken to enforce the terms of this Order.
5. Woodford Estates MHC, LLC declares it has received fair and due process under the Administrative Process Act and the State Water Control Law and it waives the right to any hearing or other administrative proceeding authorized or required by law or regulation, and to any judicial review of any issue of fact or law contained herein. Nothing herein shall be construed as a waiver of the right to any administrative proceeding for, or to judicial review of, any action taken by the Board to modify, rewrite, amend, or enforce this Order.
6. Failure by Woodford Estates MHC, LLC to comply with any of the terms of this Order shall constitute a violation of an order of the Board. Nothing herein shall waive the initiation of appropriate enforcement actions or the issuance of additional orders as appropriate by the Board or the Director as a result of such violations. Nothing herein shall affect appropriate enforcement actions by any other federal, state, or local regulatory authority.
7. If any provision of this Order is found to be unenforceable for any reason, the remainder of the Order shall remain in full force and effect.
8. Woodford Estates MHC, LLC shall be responsible for failure to comply with any of the terms and conditions of this Order unless compliance is made impossible by earthquake, flood, other acts of God, war, strike, or such other unforeseeable circumstances beyond its control and not due to a lack of good faith or diligence on its part. Woodford Estates MHC, LLC shall demonstrate that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. Woodford Estates MHC, LLC shall notify the DEQ Regional Director verbally within 24 hours and in writing within three business days when circumstances are anticipated to occur, are occurring, or have occurred that may delay compliance or cause noncompliance with any requirement of the Order. Such notice shall set forth:
 - a. the reasons for the delay or noncompliance;
 - b. the projected duration of any such delay or noncompliance;
 - c. the measures taken and to be taken to prevent or minimize such delay or noncompliance; and

- d. the timetable by which such measures will be implemented and the date full compliance will be achieved.

Failure to so notify the Regional Director verbally within 24 hours and in writing within three business days, of learning of any condition above, which the parties intend to assert will result in the impossibility of compliance, shall constitute a waiver of any claim to inability to comply with a requirement of this Order.

9. This Order is binding on the parties hereto and any successors in interest, designees and assigns, jointly and severally.
10. This Order shall become effective upon execution by both the Director or his designee and Woodford Estates MHC, LLC. Nevertheless, Woodford Estates MHC, LLC agrees to be bound by any compliance date which precedes the effective date of this Order.
11. This Order shall continue in effect until:
 - a. The Director or his designee terminates the Order after Woodford Estates MHC, LLC has completed all of the requirements of the Order;
 - b. Woodford Estates MHC, LLC petitions the Director or his designee to terminate the Order after it has completed all of the requirements of the Order and the Director or his designee approves the termination of the Order; or
 - c. the Director or Board terminates the Order in his or its sole discretion upon 30 days' written notice to Woodford Estates MHC, LLC.

Termination of this Order, or any obligation imposed in this Order, shall not operate to relieve Woodford Estates MHC, LLC from its obligation to comply with any statute, regulation, permit condition, other order, certificate, certification, standard, or requirement otherwise applicable.

12. Any plans, reports, schedules or specifications attached hereto or submitted by Woodford Estates MHC, LLC and approved by the Department pursuant to this Order are incorporated into this Order. Any non-compliance with such approved documents shall be considered a violation of this Order.
13. The undersigned representative of Woodford Estates MHC, LLC certifies that he or she is a responsible official authorized to enter into the terms and conditions of this Order and to execute and legally bind Woodford Estates MHC, LLC to this document. Any documents to be submitted pursuant to this Order shall also be submitted by a responsible official of Woodford Estates MHC, LLC.
14. This Order constitutes the entire agreement and understanding of the parties concerning settlement of the violations identified in Section C of this Order, and there are no

representations, warranties, covenants, terms or conditions agreed upon between the parties other than those expressed in this Order.

15. By its signature below, Woodford Estates MHC, LLC voluntarily agrees to the issuance of this Order.

And it is so ORDERED this _____ day of _____, 20____.

Thomas A. Faha, Regional Director
Department of Environmental Quality

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Woodford Estates MHC, LLC voluntarily agrees to the issuance of this Order.

Date: 10/30/17 By: [Signature], COO

(Person) (Title)

Woodford Estates MHC, LLC

Joseph Weber, COO
The Carlyle Group, Inc., Manager

Commonwealth of California
Virginia

City/County of Los Angeles

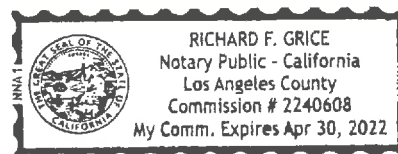
The foregoing document was signed and acknowledged before me this 30th day of
October, 20 19, by Joseph Weber who is
C.O.O. of Woodford Estates MHC, LLC, on behalf of the company.

[Signature]
Notary Public

Commission #: 2240608
Registration No.

My commission expires: April 30, 2022

Notary seal:



APPENDIX A SCHEDULE OF COMPLIANCE

1. Woodford Estates MHC, LLC shall:

Within 30 days of the execution of this Order, submit to DEQ an operations plan which details measures the facility will employ to ensure compliance with the Permit effluent discharge limits for ammonia. Should DEQ provide comments, Woodford Estates shall respond to these comments within 30 days and resubmit the Operations Plan to DEQ. The Operations Plan shall be incorporated into the Woodford Estates Operation and Maintenance Manual. Compliance items and timelines in the final plan shall be incorporated into, and become enforceable portions, of this Order, per Section E. The compliance timeline of the operations plan shall not extend beyond 120 days after execution of the Order.

2. DEQ Contact

Unless otherwise specified in this Order, Woodford Estates MHC, LLC shall submit all requirements of Appendix A of this Order to:

Virginia Department of Environmental Quality
Northern Regional Office
Attn: Enforcement
13901 Crown Court
Woodbridge, VA 22193